

AFFIDAVIT OF JOHN SCHILLING

I, John Schilling, to the best of my knowledge, state as follows:

1. I am over the age of eighteen (18) and am competent to testify; and I have personal knowledge of the following.
2. I am President of the American Federation for Children (“AFC”).
3. Sarah Raybon’s (“Ms. Raybon”) work product for AFC was good when she performed the responsibilities included in her job description. AFC did have problems with Ms. Raybon when she routinely ventured outside of her job responsibilities, went rogue in defiance of AFC’s strategy in the state of Arizona, and along with her mother Sydney Hay (“Ms. Hay”), created a hostile work environment for members of the Arizona team.
4. Ms. Raybon had been told repeatedly by AFC’s Arizona Communications Director Kim Martinez (“Ms. Martinez”) not to engage with hostile individuals on Twitter and that all communications responsibilities for AFC’s Arizona work were conducted through Ms. Martinez.
5. In September 2017, I and National Communications Director Tommy Schultz had to reprimand Ms. Raybon for engaging in a Twitter battle with individuals who were hostile to educational choice in Arizona, including engagement on issues unrelated to educational choice.
6. In May 2018, on the last evening of AFC’s National Policy Summit, the Arizona legislature was finishing up its last day of session. Several AFC staff, including the leadership of the organization, Greg Brock and John Schilling, our board chairman’s Executive Assistant Kathy Daly, and AFC Senior Advisor Scott

Jensen who oversaw our work in Arizona were gathered in the bar area at approximately 12:30 am. We had been called out to help deal with a pending legislative item in Arizona. Ms. Raybon was also there, demanding that we get our board chairman, Bill Oberndorf, on the phone and insist he immediately call the Arizona Governor regarding this legislative issue. Her behavior was unprofessional and inappropriate.

7. By 2019, AFC had been looking for a full time Arizona state director for two years. Ms. Raybon's mother, Sydney Hay ("Ms. Hay") had essentially functioned as AFC's in-state lead for several years. Her work was overseen by AFC Senior Advisor Scott Jensen and supervised first by National State Teams Director Jonathan Nikkila and subsequently by Nikkila's replacement Darrell Allison starting in the spring of 2018. Steve Smith ("Mr. Smith") was recommended for the state director position by both Ms. Hay and Ms. Raybon and began work as Arizona state director in January 2019.
8. Throughout AFC's two-year search for a state director in Arizona, both Ms. Raybon and Ms. Hay were becoming increasingly difficult to manage for our team, and relationships with some key AFC allies were becoming increasingly frayed. Both Ms. Raybon and Ms. Hay were unhappy that neither would be selected for the state director position. The very clear Human Resources reason for this was the inevitable conflict of interest resulting from a mother supervising her daughter or a daughter supervising her mother. Ms. Raybon also lacked the necessary legislative, fundraising, political and communications skills and experience necessary for the state director position. There were also leadership

and policy issues regarding Ms. Hay because of the tension and mistrust directed towards AFC among some key allies. These issues were conveyed to Ms. Hay by Jonathan Nikkila, Scott Jensen, and myself at various times over this two-year period.

9. Over the last year of Ms. Raybon's employment and Ms. Hay's contract with AFC, the two of them were creating an increasingly hostile work environment first for Ms. Martinez, and then with the new state director Mr. Smith when he came aboard in January 2019. Ms. Martinez reached a point where she threatened to quit if things did not improve or unless we moved her to Washington, DC to work exclusively with the national team.
10. Ms. Martinez made her concerns known to her supervisor, AFC National Communications Director Tommy Schultz, and to me. In addition, unhappiness working with Ms. Raybon had compelled AFC's Native American canvasser to quit.
11. Over the two days Ms. Raybon was in DC for the February 2019 AFC state teams meeting, she approached five members of AFC's team who were African American and Hispanic and accused her supervisor, Mr. Smith, of both being a racist and treating her with disrespect. The only evidence she offered to support her claim that Mr. Smith was a racist was to point to legislation Mr. Smith had sponsored as a state senator.
12. After learning about Raybon's claims of racism against Mr. Smith to other team members, I contacted National Implementation Director Lindsey Rust ("Ms. Rust") on February 21, 2019. Ms. Rust had previously supervised Raybon. Ms.

Rust acknowledged having had a conversation with Ms. Raybon prior to the DC trip where she expressed some dissatisfaction with Mr. Smith's style, tone, and lack of understanding about what her job requirements entailed. She did not make any allegations to Ms. Rust that Mr. Smith was a racist nor did she communicate to Ms. Rust that she was making, or planned to make, a formal complaint against him.

13. I also spoke to Mr. Smith to get his take on how things were going with Ms. Raybon and the Arizona team. He said he had been trying to ascertain exactly what her responsibilities were, how the work was conducted and how it was going. He said he asked a lot of questions because he was new and in a supervisory role.

14. I then communicated what I had learned to AFC Chief Financial Officer Jennifer Miller who was in charge of Human Resources matters. I was of the opinion that she and I needed to talk with Ms. Raybon immediately to get to the bottom of the allegations she was making against Mr. Smith. In these situations, particularly when it comes to human resources matters, I always have Ms. Miller present for the conversation.

15. In the meeting Ms. Miller and I had with Ms. Raybon, she was highly emotional and repeatedly broke down. We were very respectful and spent the time necessary for her to compose herself. When asked to detail the issues she was apparently having with Mr. Smith, she pointed to a bill he had introduced as proof he was hostile to Hispanics and cited several instances where she said he was rude and disrespectful to her. When I stated to her that at AFC we do not tolerate a hostile work environment

for employees and that I would speak directly with Mr. Smith regarding these specific issues, Ms. Raybon insisted that she wanted to handle it on her own and did not want me to speak with Mr. Smith about these allegations. I found this odd, but frankly, neither Ms. Miller nor I found her allegations regarding Mr. Smith's hostility towards Hispanics to be credible. Her allegations regarding him being rude and disrespectful boiled down to a he said/she said and was generally less concerning.

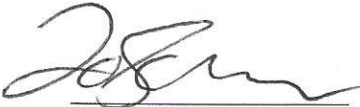
16. Following the meeting Ms. Miller and I had with Ms. Raybon, I received a note from Darrell Allison that Mr. Smith had been in contact with one of the employees with whom Ms. Raybon had communicated with. He was told that Ms. Raybon had accused him of racism. Mr. Smith was stunned and infuriated by these accusations. He said that at no time has he ever uttered racist words and proceeded to explain the legislation he had sponsored, which was in no way hostile to Hispanics. Mr. Smith seriously considered taking legal action against Ms. Raybon for defamation and has indicated that he reserves that right should these accusations be made again. At that point I reached out to each member of the team that Ms. Raybon had spoken to in order to get a first-person account of exactly what she had alleged.

17. Ms. Miller and I spoke again with Ms. Raybon on February 25, 2019. We believed the allegation concerning racism was made in a bad faith attempt to smear Mr. Smith's name. As we discussed these issues with Ms. Raybon, she announced she would be resigning. I asked if that was really her intention, she said yes, and I accepted her resignation. Later that evening she emailed another resignation, which is attached.

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the foregoing is true and correct.

9/27/19

Date



John Schilling

Sarah Raybon
P.O. Box 13926
Scottsdale, AZ 85267
928-864-7789
sarahraybon@gmail.com

February 25, 2019

John Schilling, President
Jen Miller, CFO
American Federation for Children
1020 19th St. NW, Suite 675
Washington, D.C. 20036

Sent via email

Please accept this letter as formal notification that I am resigning from my position as Arizona Implementation Director for American Federation for Children.

I am very grateful to both AFC and Lindsey Rust for the opportunity.

In the same diligent and helpful manner in which I have done my work the last couple of years, I am happy to do whatever necessary to ensure a smooth transition.

I will wait to hear from Jen on next steps and what my final employment date will be.

Sincerely,



Sarah Raybon

AFFIDAVIT OF STEVE SMITH

I, Steve Smith, to the best of my knowledge, state as follows:

1. I am over the age of eighteen (18) and am competent to testify; and I have personal knowledge of the following.
2. On January 2, 2019, I became the American Federation for Children ("AFC") Arizona State Director. As apart of my duties, I was responsible for managing Sarah Raybon ("Ms. Raybon").
3. In a meeting on January 2, 2019, the team informed me about the fallout and backlash they received in the previous year when "immigration status" was mentioned on the AFC website. Upon hearing about the backlash this caused, the team informed me of the decision to remove this language from the website. I believe this language had already been removed from the website for several months prior to my starting at AFC.
4. In my first month at AFC, I asked Sarah Raybon ("Ms. Raybon") and all team members including Sydney Hay ("Ms. Hay") and Kim Martinez ("Ms. Martinez") to supply me with as much information as possible so I could better understand what exactly was happening with AFC in Arizona. As a team, we had many discussions and exchanged many emails, and my tone and communication during this entire time was nothing but respectful and professional. There is nothing whatsoever that was rude or disrespectful in nature in any of my communications with Ms. Raybon over our entire working relationship.
5. During a team discussion in January of 2019, it was decided that AFC would have a meeting with new Arizona State Superintendent Kathy Hoffman ("Ms.

Hoffman”) to discuss policy for the 2019 legislative session. Ms. Raybon agreed to schedule that meeting. Ms. Raybon then scheduled her own private meeting with Ms. Hoffman and her staff a few days ahead of the scheduled AFC meeting to discuss implementation of the ESA program and a potential new task force Ms. Hoffman was going to create. This fell in line with the scope of Ms. Raybon's position, so I certainly did not object her having this meeting.

6. After Ms. Raybon's meeting with Ms. Hoffman, the meeting AFC had on January 31 with Ms. Hoffman was set up to discuss legislation. Because of the meeting’s purpose, it was most appropriate for AFC lobbyist Ms. Hay and I to attend as legislation and policy fell into the scope of our positions’ duties. Thus, I informed Ms. Raybon and Ms. Martinez that Ms. Hay and I would attend the meeting, instead of Ms. Raybon, since she had already met with Ms. Hoffman two days prior and this meeting was not within the scope of Ms. Raybon's or Ms. Martinez's positions. Ms. Raybon said she had no problem with that whatsoever but did not want to appear to be unprofessional by not being there, so Ms. Raybon sent Ms. Hoffman and her office an email saying she would not be there herself.
7. Immediately after Ms. Hay and I met with Ms. Hoffman on January 31, she and I had a discussion in the parking garage. It was during this meeting that Ms. Hay said that she and Ms. Raybon were upset, and they were considering leaving AFC. I was shocked as this was the first time I had heard of this.
8. Ms. Hay said Ms. Raybon was unhappy because AFC did not promote her to be the state director and that I was interfering too much in her day-to-day work. When I asked what that meant, Ms. Hay said I asked Ms. Raybon too many

“obvious questions”. She told me this was in reference to when I asked Ms. Raybon about their grassroots efforts and ideas related to those efforts. Apparently, Ms. Raybon said she had already been implementing some of the ideas I was suggesting and because of that felt as if I was trying to control her too much. Of course, being my first month on the job, I was trying to find out what strategies AFC was implementing, so asking questions was the only way I could find out such information.

9. Ms. Raybon’s claim that she was not allowed to communicate with other staff is completely false. The national staff instructed me that there was a chain of command and that if an Arizona team member needed help on an issue to come to me first and then to national if I could not provide the answer as this was part of what the new State Director's job was. That is what I relayed to the Arizona team, including Ms. Raybon, and I never once said that a team member was not allowed to communicate with anyone else.
10. When I heard Ms. Hay express her and Ms. Raybon's dissatisfaction, I told her we are a team and will work out any issues any team member has and that I absolutely value both of them and want them on the team. I said it was my first month on the job and I was not aware of any of the previous dissension Ms. Hay or Ms. Raybon had with other AFC members, but that I was committed to making our team dynamic strong and that every member of the team was valued and appreciated.

11. Ms. Hay was happy with what I said because she then said she would submit her AFC renewal contract to AFC leadership, which she had not done yet, because of our conversation and the positive direction of our team.
12. When Ms. Hay told me about Ms. Raybon's concerns with me, I asked "why hasn't she told me any of this herself" as I had been nothing but cordial and professional to Ms. Raybon and I informed Ms. Hay that I would like to speak to Ms. Raybon about this directly to clear up any misunderstandings. Ms. Hay said that she did not think that was a good idea because she did not want to violate Ms. Raybon's trust in confiding in her. I then said to Ms. Hay that I didn't want this misunderstanding to continue, so if I could not speak to Ms. Raybon then could Ms. Hay speak to her on my behalf regarding everything we just spoke about. Ms. Hay then said something similar of the nature of "that should come from you because you are her boss." However, Ms. Hay then reiterated that she did not want me to speak to Ms. Raybon about this because then she would have known that Ms. Hay "violated her confiding in her". I then told Ms. Hay I would do whatever she thought was best because "you are her mother", and I would respect her decision. Ms. Hay then said it would be ok if I spoke to Ms. Raybon in generalities about how Ms. Raybon was feeling but not to mention that Ms. Hay and I talked.
13. I then immediately called Ms. Raybon but she was unavailable, so I texted her. We eventually spoke that day and without saying that Ms. Hay and I had spoken, we started talking about how this was my first month on the job. Moreover, we discussed that if there was any miscommunications or misunderstandings with

any member of the team that we simply needed to talk about it as we are all on the same side and trying to accomplish the same thing. To my recollection, Ms. Raybon mentioned something about her ability to email people at AFC national to which I said of course she could. However, I also stated to Ms. Raybon that since there was a chain of command AFC national wanted me to uphold, if it was an issue I could manage myself, I would do that that first. At no point did I ever say she, or any team member, could not email anyone at AFC national. I also informed her how much I valued her and that if she ever had anything she wanted to bring to my attention to let me know. Ms. Raybon agreed and thanked me.

14. In January of 2019, Ms. Hay started becoming more concerned with my asking questions of what the plan was legislatively since Ms. Hay was the lobbyist. In addition, Ms. Hay kept insisting that I could not direct her lobbying because, as a former elected official, I was under a one-year restriction from engaging in lobbying my former colleagues. It was at this time I really started to understand that Ms. Hay and Ms. Raybon were extremely territorial and did not want me (or anyone else at AFC) to interfere with their work and that this in fact was the real issue on the team.

15. When I informed AFC national about this, they asked me to contact attorney Tim LaSota (“Mr. LaSota”) about this, which I did, and he said I could indeed legally direct Ms. Hay’s lobbying efforts. Darrell Allison (“Mr. Allison”) informed me that I should include Mr. LaSota on our team calls in case any question like this were to arise again. Therefore, I asked Mr. LaSota to join our calls. It was on the first of such calls that Mr. LaSota informed the whole Arizona team, including

Ms. Hay, that I was able to direct her lobbying efforts. Ms. Hay conceded that to Mr. LaSota. I continued to ask Mr. LaSota to regularly attend our team calls in case of any future misconceptions, which he did.

16. On a subsequent Arizona national team call, Ms. Hay gave me her report to share with the AFC national team, a report that had an update about our legislation being opposed by and interfered with by Ms. Hoffman. Therefore, I relayed Ms. Hay's sentiments during the national call. Ms. Hay interrupted my report saying that a deal had been reached with Ms. Hoffman and that she was not impeding the progress of our legislation. I was completely taken aback as this wholly contradicted the report Ms. Hay had just given me before the conference call.

17. After the call, I texted the Arizona team that I wanted to discuss this on our Arizona team call later that day. During that call, I communicated with the AZ team only, especially Ms. Hay, that what she did on the national call earlier that day completely undermined the report that she herself had given me and made me and our team look foolish and not on the same page. Ms. Hay immediately apologized and said, "you're right, I should not have done that". After the phone call, Ms. Raybon texted me and said I treated Ms. Hay rudely. I then informed Ms. Raybon I would be happy to speak about it again with her in more detail, but she declined.

18. During the February 2019 state teams meeting in Washington, D.C., Ms. Raybon slandered me and my character by telling AFC team members that I was "racist towards Hispanics" because of an illegal immigration bill I sponsored in the

Senate in 2011. The legislation said that if a patient who was being treated in a hospital did not provide any medical insurance, driver's license, physical address, social security number or any other identification during the time they were being cared for, that the hospital administration would then be able to ask the patient if they were in the U.S. lawfully. Whether the answer was yes or no, medical attention would be provided. This simply would have allowed the costs associated with the care to be determined so the hospital's debt could be better understood. To insinuate this legislation was racist was not only dishonest but, in my opinion, libelous and slanderous. Additionally, Ms. Raybon and Ms. Hay knew about this legislation before they recommended me for the state director position at AFC and never once indicated it could be problematic.

19. When it was brought to my attention that Ms. Raybon had been telling other AFC personnel that I was racist, I informed AFC national that I was extremely offended. Several AFC team members told me what Ms. Raybon had told them (confirming that she said I was racist). Yet, apparently Ms. Raybon denied saying that despite these sources telling AFC leadership otherwise. I informed AFC leadership I was contemplating suing Ms. Raybon for defamation of character resulting from her reckless claims and behavior.
20. Additionally, Ms. Martinez of the Arizona team is Hispanic. Moreover, I replaced Ms. Raybon with a bilingual Hispanic woman to the position of Arizona Director of Implementation. I have also hired three bilingual Hispanic staff members to serve roles as the Hispanic and faith-based coordinator, media specialist, and education advocate. This is in addition to five other Hispanic and one Native

American team members who serve as education advocates. I have nothing but a great and positive working relationship with each of these members of our team.

21. Upon returning to Arizona after the February state teams meeting and hearing that Ms. Raybon alleged I was racist, I texted her on Friday, February 22, 2019 saying we needed to meet. She said she could not, to which I responded with “Let's plan on Monday then, ok?” Ms. Raybon ignored the request to meet on Monday.

22. In early 2019, AFC released a video regarding the Arizona Superintendent of Public Instruction, Kathy Hoffman, and her work with Empowerment Scholarship Accounts (“ESA”). Advocating for ESAs is a core goal of the Arizona AFC team. This video included a critique of Ms. Hoffman and her denial of ESAs to Native American families, by methods including trying to force them to re-pay the state. I was removed from an ESA task force, due to AFC’s “breaking of trust.” This was confirmed many times in the media, including in a July 2019 article in the Arizona Capitol Times that stated:

"Smith represented AFC on an ESA Task Force created by Hoffman in February, but after the organization released its first video the superintendent said “trust was broken” between the two and decided to remove Smith."


23. AFC has and continues to expose Ms. Hoffman’s hostility towards the ESA program and poor treatment of ESA families. Recently Ms. Raybon publicly defended Ms. Hoffman on Twitter, causing some concerns with ESA advocates and allies. Frank Riggs (“Mr. Riggs”) was among those who took exception to this and responded to Ms. Raybon's public Tweet (unprompted by me or anyone at AFC). AFC has not hired Mr. Riggs in any capacity.

24. On August 8, 2019, I emailed Sally Henry ("Ms. Henry") regarding a Tweet in support of Ms. Hoffman, after allies had expressed concerns about Ms. Raybon defending the Superintendent publicly. My email simply shared with Ms. Henry, who is a personal friend, the exact Tweet that Ms. Raybon had publicly authored. The email then asked if Ms. Henry knew why Ms. Raybon would do that given the Ms. Hoffman's hostility towards the very program Ms. Henry was participating in. Ms. Henry replied that she had not seen the Tweet and that was the extent of the communication regarding the Tweet in question and Ms. Raybon. The purpose of the email was to further AFC's goal of promoting ESAs and was not intended to harm Ms. Raybon personally.

25. I strongly dispute behaving rude or unprofessional at any time with Ms. Raybon and made every attempt to be courteous at all times.

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the foregoing is true and correct.

09-30-19
Date


Steve Smith



Sarah Raybon @SarahRaybon · 18h ✓

Disagree. This administration is MUCH easier to work with! The ESA task force, the parent council, the handbook changes...ClassWallet?! ALL amazing changes since SPI Hoffman. The attacks against her and her team are totally unfair.



3



2



5



Frank Riggs @RiggsforAZ · 18h ✓

Really, do you speak for the Navajo Nation families, the active duty military family with a dependent stepchild? Do you think they, or the many families with special needs children, like the Accursos (put on indefinite hold with no call back) are "attacking" & being "unfair?"



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Sarah Raybon @SarahRaybon · 18h ✓

@RiggsforAZ who are you speaking for? I am not going to jump on this anti-SPI Hoffman bandwagon just because she had a "D" next to her name. I just have a suspicion that some involved in these attacks have an agenda far beyond ADE or ESA. [#itsnotalwaysaboutthechildren](#)



10



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6



Tweet your reply

Confidential Witness Affidavit

I, Steve Smith, being first duly sworn upon my oath, state as follows:

I have been given assurances by an agent of the National Labor Relations Board (NLRB) that this Confidential Witness Affidavit will be considered a confidential law enforcement record by the NLRB and will not be disclosed unless it becomes necessary to produce this Confidential Witness Affidavit in connection with a formal proceeding.

- I receive mail at 17818 North Smith Drive, Maricopa, Arizona 85139.
- My cell phone number is: (480) 225-8939.
- I don't have a home phone.
- I work for American Federation for Children (the Employer). The Employer has an address in Washington, D.C. There is no physical address for the Employer in Arizona.
- My work e-mail address is: ssmith@federationforchildren.org.
- Counsel for the Employer, Tyler J. Freiburger, attorney at law, is present for this affidavit.

1 The Employer promotes school choice throughout the United States and in the State of
2 Arizona. The Employer has about four (4) full-time employees in Arizona: Kim Martinez
3 (Martinez), Communications Director; Esly Montenegro (Montenegro), Implementation
4 Director; Ramona Carrasco (Carrasco), Implementation Coordinator; and Gaby Ascencio
5 (Gaby), Implementation Coordinators.

6 I am the Employer's State Director for Arizona. I have been the State Director for
7 Arizona since about January 2019. Before that I was a State Senator in Arizona. As the State
8 Director, my duties are to promote school choice throughout Arizona. I report directly to Darryll

(SS)
DARRELL

Privacy Act Statement

The NLRB is asking you for the information on this form on the authority of the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the NLRB in processing representation and/or unfair labor practice cases and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). Additional information about these uses is available at the NLRB website, www.nlrb.gov. Providing this information to the NLRB is voluntary. However, if you do not provide the information, the NLRB may refuse to continue processing an unfair labor practice or representation case, or may issue you a subpoena and seek enforcement of the subpoena in federal court.

(SS)

1 Allison (Allison), Organizational Vice President. I also am responsible for supervising the
2 Employer's four (4) full-time employees in Arizona.

3 I know Sarah Raybon (Raybon). Raybon worked for the Employer at the time I started
4 working there. After leaving the Employer, Raybon started working for the Arizona School
5 Tuition Organization Association (ASTOA).

6 The Employer has ally organizations that we work with to pursue our goals of promoting
7 school choice in Arizona. There isn't any formal coalition of organizations, nor is it mandatory
8 that we work with them, but there are a few we regularly work with throughout the State.
9 Specifically, there are about four (4) organizations the Employer predominantly works with to
10 pursue our goals in Arizona. The three most prominent organizations are: EdChoice, The
11 Goldwater Institute, and Center for Arizona Policy (CAP). The fourth organization we work
12 with is called Excel in Ed. The organizations' working relationship changes depending on the
13 goal. For example, if there are events being spearheaded by one of the organizations, the others
14 will do our best to assist with the event. If the goal is promoting a piece of legislation, the
15 organizations will gather support with each other to promote it. Sometimes, the organizations
16 also work together with social media postings or parental outreach programs.

17 The Employer does not hold regularly scheduled meetings with these organizations.
18 There are times, such as during legislative sessions, where there can be weekly or biweekly
19 meetings between the organizations to discuss important pieces of legislation. Present for these
20 meetings could be additional organizations or individuals, or less. It depends on what the issue is
21 that gave rise to the meeting. There is no one individual or organization responsible for
22 organizing or planning these meetings.



1 During the legislative session in 2020, there were about 2 or 3 telephonic meetings that
2 took place around February or March. The meetings focused on the topic of improving the
3 Empowerment Scholarship Account ("ESA") school choice program in Arizona and strategies
4 our organizations could use to enhance support for the legislation.

5 The first e-mail I can recall being sent about ESA meetings was sent around January 30,
6 2020. The e-mail was sent by Jenna Bentley (Bentley), Director of Government Affairs at the
7 Goldwater Institute. Her e-mail went to me; President of CAP, Cathi Herrod (Herrod); Jason
8 Bedrick (Bedrick) from EdChoice; Sydney Hay (Hay), a lobbyist and Raybon's mother; and Max
9 Ladner (Ladner). Ladner is a prominent figure in school choice, but I don't recall which
10 organization Ladner was working for around this time (he was bouncing between a couple of
11 them). Bentley's e-mail suggested we hold an in-person meeting on February 5, 2020. I did not
12 discuss scheduling this meeting with Bentley before she sent the e-mail and I did not have a role
13 in scheduling this meeting. I will provide counsel with a copy of Bentley's e-mail to be provided
14 to the Board agent.

15 After Bentley's e-mail, at some point in February 2020, but I cannot recall the exact date,
16 I spoke with Bentley over the phone about some concerns I had with including Hay in our ESA
17 meetings. Bentley and I spoke for about ten (10) minutes. During the call I suggested that it
18 probably wouldn't be prudent to have Hay take part in the meetings because Hay had become
19 close to the Superintendent of Public Instruction (SPI), and the SPI was opposed to the ESA
20 legislation. I told Bentley something to the effect of I didn't think it was a good idea, strategy-
21 wise, to include someone who might later repeat what was said in our strategy meeting directly
22 to the Superintendent. I don't recall exactly what Bentley said, but my impression was that she
23 had the same opinion on the matter about including Hay.

1 The February 5, 2020 meeting ultimately did not take place. My understanding is that it
2 did not take place because there were only two RSVPs.

3 Between about February 5, 2020 and about February 27, 2020, but I cannot recall the
4 exact date, Bentley arranged a telephonic ESA meeting. I had no role in determining which
5 organizations or individuals were invited to this telephonic meeting. Present for the meeting
6 were me, Bentley, Ladner, Herrod and Bedrick. I have looked for the calendar invite for this
7 meeting on my computer, but I cannot find it.

8 Around February 27, 2020, Herrod suggested by e-mail that Ron Johnson (Johnson) from
9 the Arizona Catholic Conference be added to our future calls. Bedrick also sent an e-mail
10 suggesting we included an individual advocate and ESA parent, Jenny Clark (Clark). Later the
11 same day, Herrod e-mailed to suggest that Hay and Raybon should also be added to future calls.
12 To the extent the Board agent does not have a copy of each of these e-mails described above, I
13 will provide them to counsel to provide to the Board agent. Clark, Johnson, Hay and Raybon
14 were not the only individuals who were proposed as additions to the group following our first
15 telephonic meeting.

16 Within a day or two of the February 27, 2020 e-mails, I spoke with Bentley over the
17 phone about the possibility of opening the meetings up to more individuals. We spoke for about
18 ten (10) minutes. During the call I reminded her that I thought it wasn't prudent to have Hay
19 take part in the meetings given her relationship with the SPI. We also talked about whether we
20 should add others who were suggested to the group meetings. Specifically, we focused on two
21 issues in determining whether to add someone: (1) whether that individual had anything that they
22 could add, specifically, to the ESA legislation and our efforts to support it; and (2) whether they
23 were an ESA specific expert or more broadly interested in school choice in Arizona. We also

1 discussed keeping the circle smaller for these meetings so that information would not be leaked.
2 I don't recall specifically what was said, but Bentley shared my opinions about limiting the size
3 of the group and leaving Hay out. I do not recall if there was any conversation about Raybon
4 during this phone call. Had there been a discussion, my position would have been the same as
5 with Hay (because both Hay and Raybon were close to the SPI). I do not recall whether Bentley
6 and I talked specifically about adding Johnson or Clark to the meetings during this call.

7 After the February 27, 2020 e-mails from Herrod and Bedrick, I also called Bedrick and
8 spoke with him over the telephone for about ten (10) minutes. During this phone call, we talked
9 about Herrod's e-mail questioning whether Hay and Raybon should be added to the group. I
10 don't recall exactly what Bedrick said at the beginning of the call, but my impression was that he
11 was interested in including as many people as possible in the ESA meetings to get different
12 points of view. I explained to Bedrick my concerns that our confidential discussions about the
13 ESA legislation might not remain confidential if we included Raybon or Hay, given their
14 relationship with the SPI. I also explained to him that some of the other individuals who had
15 been suggested for addition to the group weren't really ESA experts. Finally, I told him that I
16 wanted to make sure there weren't any legal issues with sharing our sharing the ESA strategy
17 with Hay or Raybon in light of their relatively recent departure from the Employer. I didn't tell
18 Bedrick what I meant about legal reasons. I kept it vague. I told him something to the effect of
19 for reasons I can't disclose, I didn't want to jeopardize things on my end, legally, regarding
20 things that were outside my control. The primary reason not to have Hay and Raybon in the
21 meetings was their public support for the SPI the same day as the ESA legislation passed.

* AND TO THEIR OPPOSITION TO THE LEGISLATION ON

ADDITIONALLY, BECAUSE RAYBON MADE A PUBLIC FACEBOOK COMMENT SAYING
THAT THE LEGISLATION WE WERE WORKING ON WAS BAD FOR PARENTS AND
THAT HAY HAD BEEN RUMORED TO HAVE BEEN LOBBYING AGAINST THE BILL
ON 2/26/20 WHEN HERROD SENT HER EMAIL ON 2/27/20 SUGGESTING THEY
BE PART OF THE COALITION, THAT WAS IN APPROPRIATE BASED ON THEIR ACTIONS ON 2/26

Initials: 

1 I also think I put calls out Herrod about the February 27, 2020 e-mails, but I think we
2 played phone tag and did not communicate directly about them or about adding Hay or Raybon
3 to the ESA meetings.

4 I do not recall having any conversations with Ladner about adding Hay or Raybon to the
5 the ESA meetings, either.

6 I do recall having a conversation with Becky Hill (Hill) from Yes Everykid after one of
7 the telephonic meetings, but I do not recall whether Hay or Raybon came up during our
8 conversation. Hill had missed one of the meetings, I cannot recall the exact date, and had called
9 me to ask me for an update. I recall giving Hill an update, but not whether Raybon or Hay came
10 up during the conversation.

11 Ultimately, Bentley decided to add Johnson and Steven Shadegg (Shadegg), from
12 Americans with Prosperity, to the ESA meetings. I don't know whether Shadegg ever
13 participated in the calls, though. My recollection is there were about two (2) more calls between
14 the ESA group. The same five (5) individuals who participated in the first call participated,
15 along with Johnson. Like I said, I don't recall whether Shadegg participated.

16 The ESA legislation passed around March 16, 2020. After passage of the legislation,
17 there was a suggestion that we continue having follow-up phone calls with the group every other
18 week, but to my recollection there have not been any follow-up phone calls.

19 The last correspondence I have about the meetings is an e-mail from Bentley around
20 April 12, 2020. Bentley e-mailed the group to cancel our bi-weekly phone calls for the month.
21 Bentley sent this last e-mail to me, Bedrick, Shadegg, Johnson, Clark, Brad Galbrich from Excel
22 in Ed, Justin Olson, a political official who is involved in the school choice movement, and Hill.

FS

1 I don't believe Olson, Galbrich, Clark, Hill, Shadegg or Johnson were a part of any of the calls
2 that took place regarding the ESA legislation.

3 As far as I am ware, there weren't any bi-weekly telephonic meetings at all in May, June
4 or July 2020. Hay and Raybon were not the only individuals left off from Bentley's e-mails
5 about meetings. The Free Enterprise Club, several ESA parents, and other individuals whose
6 names I cannot recall at this time were suggested for addition but were not added by Bentley.

7 Around June 19, 2020, I reached out to Sally Henry (Henry), with the Arizona Christian
8 School Tuition Organization (ACSTO), by e-mail to try to get her help adding School Tuition
9 Organizations (STOs) to sign onto a letter of support requesting a federal effort to assist in
10 ensuring low-income students could continue to receive scholarships. An STO functions like an
11 intermediary—Arizona has a program where Arizona residents can contribute their State tax
12 liability to organizations. These STOs use these contributions to provide scholarships for low-
13 income students in Arizona. I reached out to Henry because she helps run the ACSTO and is
14 also is one of the Vice Presidents of the ASTOA. Henry had been a part of the ASTOA, which is
15 the larger organization, for years. She knows many, if not all, the STOs in Arizona. We also
16 have had a good working relationship for a long time. Henry responded by e-mail that she would
17 absolutely help and would provide a list as soon as possible. Later, Henry followed-up a second
18 time to tell me that she was going to have Raybon reach out to the STOs because it was more in
19 Raybon's lane.

20 Around the same date, Raybon e-mailed Montenegro and I about the list of STOs. The e-
21 mails that were exchanged between us have already been provided to the Board agent as Exhibit
22 4 to the Position Statement.



I am being provided a copy of this Confidential Witness Affidavit for my review. I understand that this affidavit is a confidential law enforcement record and should not be shown to any person other than my attorney or other person representing me in this proceeding.

I have read this Confidential Witness Affidavit consisting of 8 pages, including this page, I fully understand it, and I state under penalty of perjury that it is true and correct.

However, if after reviewing this affidavit again, I remember anything else that is important or I wish to make any changes, I will immediately notify the Board agent.

Date: 7.24.20

Signature: _____

A. Smith
Steve Smith

Signed and sworn to before me by telephone on 7.24.20.

Kyler Scheid

7/24/20

Kyler A. Scheid
Board Agent
National Labor Relations Board

(SS)

AFFIDAVIT OF DARRELL ALLISON

I, Darrell Allison, to the best of my knowledge, state as follows:

1. I am over the age of eighteen (18) and am competent to testify; and I have personal knowledge of the following.
2. I am currently employed as the National Director of State Teams and Political Advocacy for American Federation for Children ("AFC").
3. I have taken the time to thoroughly review the allegations from Sarah Raybon's ("Ms. Raybon") mother, Sydney Hay (Ms. Hay), regarding legal and ethical violations by Steve Smith, Arizona State Director ("Mr. Smith") in an email dated February 8, 2019.
4. As I recall, Ms. Hay communicated such allegations not only to me but to several other members of AFC. In fact, before Ms. Hay communicated directly to me, I received calls from a number of American Federation for Children ("AFC") staff and consultants regarding Ms. Hay's strong objections about Mr. Smith breaking the law. This was unfortunate because I am listed as her direct report within her 2019 contract with AFC. Moreover, I did receive an email from Ms. Hay on February 8th, 2019 detailing her strong concerns regarding Mr. Smith's alleged illegal actions.
5. However, my response to Ms. Hay's email was prompt and clear; I couldn't speak with Sydney directly because, at the time of I read her email, I was actually in flight and unable to speak with her.

6. After a thorough review of Ms. Hay's February 8, 2019 email, I quickly reached out to AFC's in-state Arizona attorney, Tim LaSota, to do the following at his earliest convenience:
 - A. Thoroughly review the allegations alleged;
 - B. Please speak directly with Mr. Smith about such allegations without revealing who specifically was raising them but to stress to Mr. Smith that such allegations were being raised and that AFC needed to address them and needed his participation; and
 - C. Thereafter, I requested that Tim prepare a memo for John Schilling and me outlining what he discovered and to also give us his conclusions (point by point) regarding if he believed that there were any violations, legally or ethically.
7. Mr. LaSota's review and conclusions are contained within the attached February 10th, 2019 memo addressed to John Schilling and me, where he evaluated each of the five (5) points and provided us his legal opinion that Mr. Smith had not violated any legal or ethical laws.
8. Moreover, in an effort to work diplomatically and professionally to salvage a fragile working-relationship between Ms. Hay and Mr. Smith, I asked Mr. LaSota to join in on the regularly scheduled weekly Arizona Legislative meetings between Ms. Hay, Mr. Smith and other potential staff. My goal was to show Ms. Hay that AFC was serious about Arizona Compliance Laws and, equally, underscore the point to Mr. Smith (a little more than a month into his new role at the time) that AFC will and must go the extra mile regarding compliance, especially given the

fact that he was prohibited by state law to lobby legislators. Moreover, I personally forwarded Mr. LaSota's memo to Ms. Hay on February 10, 2019 (two days after her initial email that raised complaints) followed by a phone conversation.

Moreover, I did the same, separately, with Mr. Smith.

9. In addition, given the nature of the issue presented and, candidly, the unprofessional way this issue came to me from Ms. Hay, I tried to respond by working professionally, promptly and proactively in an effort to not only determine if violations had occurred but also in an effort to implement a system, through our attorney, to ensure that we were better managing legislative activities in Arizona and better managing the working dynamic of Ms. Hay (contract lobbyist) and her expressed, unsubstantiated, issues with Mr. Smith.
10. Lastly, as to the issues raised by Ms. Raybon regarding me and the way we handled allegations brought by Ms. Hay to me regarding Mr. Steve Smith, I can personally attest that we (AFC) attempted to work in the most professional way and – just as important – most respectfully to all involved.

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the foregoing is true and correct.

9-30-2019
Date


Darrell Allison

AFFIDAVIT OF KIM MARTINEZ

I, Kim Martinez, to the best of my knowledge, state as follows:

1. I am over the age of eighteen (18) and am competent to testify; and I have personal knowledge of the following.
2. I am a National Correspondent, and Arizona Communications Director at American Federation for Children ("AFC"). Over the last year or so, before Sarah Raybon ("Ms. Raybon") and Sydney Hay ("Ms. Hay") parted ways with AFC, I was becoming increasingly unhappy working with both of them.
3. The work atmosphere was quickly becoming toxic as they were making it more and more clear that their agenda was to get Sarah promoted to the open State Director position.
4. At one point I was asked by Ms. Hay to endorse Ms. Raybon to AFC management as the best candidate. In an attempt to "keep the peace", since I was odd man out, I told Jonathan Nikkila, the Government Affairs Director at the time that I would be fine with Ms. Raybon being the State Director.
5. As Ms. Raybon and Ms. Hay continued to campaign for Ms. Raybon to get the position, I started feeling more and more of a power struggle and alienation from the team which was only comprised of Ms. Raybon, Ms. Hay and myself.
6. At one point, I followed up with my supervisor, Tommy Schultz and AFC management to let them know that the team dynamic was becoming toxic.
7. On a handful of occasions, Ms. Raybon and Ms. Hay both displayed incredibly unprofessional conduct by screaming at me while I was attempting to fulfill the scope of my job as the Arizona Communications Director. One of those times

included a volatile situation where one of Ms. Raybon's public communications made the news. As I was trying to mitigate public relations damage due to Ms. Raybon's mistake, she screamed at me, slammed her phone down, and would no longer take my calls afterwards.

8. At that point, I decided to distance myself as much as possible from both Ms. Raybon and Ms. Hay. The final straw came at an AFC State Teams Meeting in February, when I was completely offended that Ms. Raybon was seeking out and targeting minorities in the company in an attempt to rally support against Steve Smith ("Mr. Smith") by levying baseless and false allegations that he is a "racist".
9. As a minority female, the fact that Ms. Raybon was attempting to use the "race card" to manipulate minorities in the organization was discriminatory in nature. Two other Hispanic females that Ms. Raybon approached at that meeting also expressed to me that they were highly offended by her actions. They both told me they knew they were being manipulated because Ms. Raybon, prior to this situation, never bothered to talk with either of them.
10. A total of three Hispanic AFC employees approached me at separate times over the course of the 2-day meeting saying they were pulled aside by Ms. Raybon who told each of them that Mr. Smith is "racist against Hispanic people." At that point, after the state meeting, I notified my supervisors that I can't stay in Arizona working with them any longer.
11. An opportunity to join the national communications team was offered to me a few months earlier, and I notified AFC that I would need to take them up on that offer if the two of them were to remain with AFC in Arizona.

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the foregoing is true and correct.

September 30, 2019
Date



Kim Martinez